

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**ORDER DISMISSING COUNTERCLAIM**

**REAGAN, District Judge:**

On March 24, 2006, Shipman filed this action under 42 U.S.C. § 1983 (Doc. 1). On May 10, 2006, Hamilton filed an answer (Doc. 8). On July 11, 2006, Hamilton filed a counterclaim against Shipman alleging battery (Doc. 15). On October 2, 2008, Hamilton filed a notice voluntarily dismissing his counterclaim (Doc. 62).

**FEDERAL RULE OF CIVIL PROCEDURE 41(a)(2)** provides that where an answer or a motion for summary judgment has been filed, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Thus, the Court construes Hamilton’s filing as a motion to dismiss his counterclaim. Shipman, however, has informed the Court that she has no objection to dismissal of the counterclaim.

Having fully considered the matter, the Court hereby **GRANTS** the motion (Doc. 62) and **DISMISSES** the counterclaim (Doc. 15) **with prejudice**.

## IT IS SO ORDERED.

**DATED this 6th day of October 2008.**

s/ Michael J. Reagan  
**MICHAEL J. REAGAN**  
**United States District Judge**